



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of the Director
Bureau of Consumer Protection

January 22, 2010

Via Electronic Filing

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Comments - NBP Public Notice #29
GN Docket Nos. 09-47, 09-51, and 09-137

Dear Ms. Dortch:

The Federal Trade Commission (FTC) staff appreciates this opportunity to respond to the Federal Communications Commission's (FCC) Public Notice seeking comment on privacy issues raised by the Center for Democracy and Technology (CDT). As we have stated previously, we believe that strong privacy and data security protections for consumers are critical as the FCC develops a national broadband plan.¹

The FTC has made privacy one of its highest consumer protection priorities for more than a decade.² The FTC has worked for years to address privacy issues through law enforcement, regulation, policy initiatives, and consumer and business education.³ The FTC's goals in the privacy arena have remained constant: To protect consumers' personal information and to ensure that consumers have the confidence to take advantage of the many benefits offered by the ever-changing marketplace.

The FTC staff applauds the FCC's decision to seek comment on the specific issues raised by CDT. Indeed, the FTC is exploring the same issues as part of a broader initiative to reexamine various models to promote consumer privacy. The FTC is hosting a series of day-long public roundtable discussions to explore the privacy challenges posed by the vast array

¹ See Comment of the Federal Trade Commission, GN Docket No. 09-51, filed Sept. 4, 2009; see also Letter from David C. Vladeck to Marlene H. Dortch, GN Docket Nos. 09-47, 09-51, and 09-137, filed Dec. 9, 2009.

² See generally FTC, Privacy Initiatives, <http://www.ftc.gov/privacy/index.html>.

³ These efforts are described in more detail in the filings cited in footnote one above.

of 21st century technologies and business practices that collect and use consumer data.⁴ The goal of the roundtables is to determine how best to protect consumer privacy while supporting beneficial uses of the information and technological innovation. The issues CDT raises will be addressed through the roundtable discussions as well as through requests for comments and original research.

For example, at CDT's suggestion, the FCC seeks comment on consumer expectations of privacy. The FTC's first roundtable, held on December 7, 2009, included a panel discussion addressing consumer expectations and disclosures. Academic experts, industry representatives, and consumer advocates explored the issue of consumer expectations, discussed recent survey evidence regarding such expectations, and addressed the adequacy of and methods for improving consumer disclosures. In addition, we asked for comment on these issues in advance of the roundtable and received numerous submissions, available on our website.⁵ Many commenters and roundtable participants noted that consumers are concerned about the extent to which companies may be collecting and using consumer information without their knowledge or consent. Others observed that consumer expectations are difficult to measure and may not adequately account for services or benefits made possible by information collection and use. In addition, some expressed the view that company reliance on lengthy terms of use or privacy policies often does not provide transparency concerning consumer information handling practices or lead to effective consumer control. Others commended the progress some businesses and industry associations have made in developing improved methods of disclosure. Information regarding this panel discussion, including a webcast and draft transcript, is available on our privacy roundtable website.⁶

Similarly, the FCC seeks comment on third-party applications and the promotion of privacy-protective technologies. These issues will be the subject of several panel discussions in our second privacy roundtable, to be held on January 28, 2010, in Berkeley, California. In particular, we will have one panel discussion devoted to the privacy implications of social networking and other platform providers. As the amount of personal information shared on social networking sites and other platforms grows, and the number of third-party companies and advertising networks with access to such information grows, it is important that consumers understand how their data is being shared and what privacy rules apply. The panel will include representatives from platform and third-party application providers, academics, technology experts, and consumer advocates. The event will be webcast and information about the event will be posted on our event website.⁷ As with the first roundtable, we requested public comment on these issues, and the comments are also available on our website.

Finally, we expect to address issues surrounding health and sensitive information, the last

⁴ More information about the Privacy Roundtables can be found at <http://www.ftc.gov/bcp/workshops/privacyroundtables/index.shtml>.

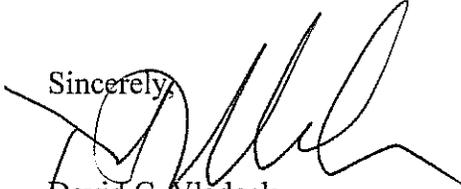
⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

category of questions that CDT raises, at our third roundtable in Washington, DC, on March 17, 2010. We have posted questions for comment on our website that are similar to those raised by CDT.⁸ Our third roundtable also will be webcast and comments will be publicly posted.

The FTC staff supports the FCC's decision to consider privacy and data security interests as it develops its broadband plan. We believe that the information gathered at the FTC's privacy roundtables, including the public comments, will assist the FCC as it considers consumer privacy in these contexts. The FTC will continue to devote substantial resources to protecting consumers from deceptive or unfair acts or practices in the areas of privacy and data security, and we look forward to working with the FCC on such issues in the future. Accordingly, we recommend that the Broadband Plan draw upon the FTC's law enforcement, consumer education, and ongoing policy development efforts in light of its years of experience protecting consumer privacy online and offline.

Sincerely,

David C. Vladeck